

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ESTATE OF MAHER IBRAHIM,  
SABRINA IBRAHIM, SONYA AUDI,  
CHRISTINA SLATER and MARY IBRAHIM

Plaintiffs,

Case No. 22-cv-1116-pp

v.

THE BAY AT BURLINGTON HEALTH  
AND REHABILITATION LLC,  
CHAMPION CARE LLC  
and JB KENOSHA HEALTHCARE LLC,

Defendants,

and

CENTER FOR MEDICARE & MEDICAID SERVICES,

Subrogee Defendant.

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**ORDER APPROVING STIPULATION (DKT. NO. 10), GRANTING JOINT  
MOTION AGREEING TO VOLUNTARILY DISMISS MEDICARE AND REMAND  
CASE TO CIVIL COURT (DKT. NO. 11), DENYING AS MOOT DEFENDANT  
CENTER FOR MEDICARE & MEDICAID SERVICES' MOTION TO DISMISS  
(DKT. NO. 3) AND REMANDING CASE TO RACINE COUNTY CIRCUIT  
COURT**

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On March 24, 2020, the plaintiffs filed a wrongful death complaint against the defendants in Racine County Circuit Court. Dkt. No. 1 at 1. Over two years later, the plaintiffs filed a motion to join additional party defendants and file a supplemental complaint, which the state court granted. *Id.* at 2. On August 24, 2022, the plaintiffs served the United States Attorney for the Eastern District of Wisconsin with a supplemental complaint, naming the

Center for Medicare & Medicaid Services. *Id.* Because the U.S. Department of Health and Human Services oversees the Medicare program, the United States Attorney filed a timely notice of removal. *Id.* (citing 28 U.S.C. §1442(a)(1)). On October 7, 2022, the United States Attorney moved to dismiss defendant Center for Medicare & Medicaid Services for lack of subject-matter jurisdiction based on the doctrine of sovereign immunity. Dkt. No. 3.

The plaintiffs and the Center for Medicare & Medicaid Services filed a stipulation, dkt. no. 10, and joint motion to dismiss the Center for Medicare & Medicaid Services based on their settlement, dkt. no. 11. They ask the court to remand the case to Racine County Circuit Court for the filing of the signed settlement agreement. *Id.* at 2. Although the court would typically wait for the other defendants to respond to the joint motion, no other defendants have appeared in the case.<sup>1</sup> The court finds no basis for the exercise of subject matter jurisdiction.

The court **APPROVES** the parties' stipulation. Dkt. No. 10.

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<sup>1</sup> Although the Center for Medicare & Medicaid represents that the state court case was filed over two and a half years ago, the supplemental complaint attached to the notice of removal does not include the wrongful death allegations from the original complaint. Dkt. No. 1-2. The publicly available docket indicates that the case was removed on September 23, 2022, but it remains open in Racine County Circuit Court with a jury trial scheduled for September 22, 2023. *Maher Ibrahim et al. v. The Bay at Burlington Health and Rehabilitation, LLC, et al.*, Racine County Court Case No. 2020cv000970 (available at <https://www.wicourts.gov>). Attorneys have appeared for the other defendants in the state court case.

The court **GRANTS** the joint motion to voluntarily dismiss the Center for Medicare & Medicaid Services and remand the case to Racine County Circuit Court. Dkt. No. 11.

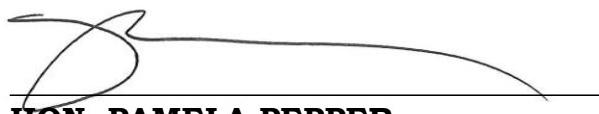
The court **ORDERS** that the Center for Medicare & Medicaid Services is **DISMISSED** as a defendant.

The court **REMANDS** the case to Racine County Circuit Court for further disposition.

The court **DENIES AS MOOT** the Center for Medicare & Medicaid Services' motion to dismiss. Dkt. No. 3.

Dated in Milwaukee, Wisconsin this 27th day of December, 2022.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
**Chief United States District Judge**